Letter RO-7

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Via Regular Mail and Email

Gregory Mattson
Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, CA 92123
Gregory.Mattson@sdcounty.ca.gov

Re: Environmental Impact Report: Otay Ranch Resort Village
SCH# 2004101058

Dear Mr. Mattson:

RO-7-1 This law firm represents Save Our Mojave, a 501(c)(3) non-profit organization working to raise public awareness about some of the most pressing issues facing California, including unchecked damage to the environment and wildlife.

RO-7-2 Save Our Mojave has reviewed the Environmental Impact Report ("EIR") for the proposed Otay Ranch Resort Village (the "Project"). The Otay Ranch Project calls for the construction and development of 1,881 single-family residences on roughly 525-acres; a 14-acre mixed use site that includes 57 multi-family residences and 20,000 square feet commercial/office uses; 29-acres of parks (private/public); a 17-acre resort site including 200 guest rooms and up to 20,000 square feet of commercial/retail uses; an approximately 2-acre public safety site for a fire station/sheriff storefront; 10-acre elementary school site; 144-acres of manufactured and open space; 1,089-acres of preserve open space; perimeter trails and pathways and traffic calming roundabouts with 39-acres for roadways.

RO-7-3 "CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure." CEQA Guidelines § 15003(I). Absent complete environmental impact analysis of the effect on the local environment and wildlife, the EIR is not a "good faith effort at full disclosure."

RO-7-4 After investigation and after review of publicly available documents, Save Our Mojave believes that the Project does not adequately mitigate the impact of the Project on the environment and on the local wildlife.

RO-7-5 The Project is being proposed in an area that includes acres of pristine coastal sage scrub and chaparral. The Project also includes the Proctor Valley area, which is an important wildlife corridor and connector between major unspoiled, undeveloped tracts of land on Mount San Miguel, Otay Mountain and the Jamul Mountains. The Project will inhibit the migration of numerous wild species and cause species segmentation and extinctions. We note that wildlife corridors are important for plants as well as animals.

RO-7-6 Moreover, the Project is being proposed at a location with numerous endangered plants, insects and animals. We note that the Project will be built within the existing boundaries of the Multiple Species Conservation Plan land, an area that was set aside for preservation and conservation. During the construction, endangered animals are in danger of being killed by road work, grading and truck transport. After construction, the harmful effect on the environment and wildlife will continue given the massive scale of the Project.

RO-7-7 We are especially concerned about the Project's impact on the local Quino checkerspot butterfly population. The Quino checkerspot used to be one of the most common butterflies in Southern California, but now it is on the verge of extinction. The Quino checkerspot was placed on the Federal endangered species list in 1997 and that designation remains through the present. Otay is home to some of the species' strongest populations, and the Project puts this essential habitat at risk.

RO-7-8 As stated in the U.S. Fish and Wildlife Service *5-Year Review: Quino Checkerspot Butterfly,* "loss and modification of Quino habitat continue to be a primary threat to the subspecies, especially in areas where urbanization is expected to expand" § 13 (2009). In the EIR, figures plotting the location and density of Quino checkerspot host flora exemplify the disastrous habitat implications of the Project. Within the Project boundaries are an incredibly high volume of host plants that are essential to the breeding and well-being of the subspecies. The proposed Conserved Open Space in Alternative H is inconsequential compared to the acres of lost habitat caused by the construction and long term impact of the Project.

> [T]he species is still vulnerable to extinction with current habitat destruction and population losses. Habitat protection... [will] make it possible to manage most core populations to prevent future population collapse.

RO-7-9 Carlsbad Fish and Wildlife Office, *5-Year Review: Quino Checkerspot Butterfly* § 30 (2009).

> Butterflies play a vital role in the ecosystem, there is a co-evolutionary relationship between butterflies and plants, their lives are interlinked. Butterflies are the wild indicators of the ecosystem; these insects tell us everything about the healthier ecosystem. These are effective pollinators, butterflies visit the flower to eat nectar and this is a mutually beneficial relationship. These insects also provide food for other organisms, for example; birds, reptiles, amphibians, and also act as biological pest control.

Butterflies and their contribution in ecosystem: A review, Journal of Entomology and Zoology Studies 4(2) § 115-118 (2016). The absolute significance of butterflies in the ecosystem cannot be overstated. As the climate crises and overpopulation continue to impact pollinating species, efforts to avoid any further destruction should be taken at all costs.

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The Quino Checkerspot Butterfly Management/Enhancement Plan included in the EIR relies heavily on habitat restoration and "enhancement," willfully ignoring the impact of the development area itself, and of the construction period. Over half of the Project site would be occupied by the development, thereby rending a significant portion of the "proposed Preserve vegetation communit[ies]" insignificant. The tables and maps are designed to be intentionally complicated and misleading with the purpose of disorienting a reviewer into a favorable understanding. The aforementioned plan makes no mention whatsoever of a proposal for mitigating Quino habitat destruction and disruption during the long construction process. Quino checkerspots fly close to the ground and so are especially vulnerable to disturbance by construction vehicles and materials. The construction process has the potential to be especially destructive to Quino larvae, which easily go unnoticed. The mitigation plans do not give us confidence that the Project would take every possible measure to avoid larvae destruction during the construction process.

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The surveys performed to determine the effects on the Quino checkerspot were not adequate. The Quino is a climate-sensitive, "eruptive" species that periodically experiences order of magnitude increases in abundance every 5-20 years, then will drop back to much lower abundance over time. The last range wide Quino population abundance low was in the late 1980s. Quino populations may currently be in a deceptive level of abundance, but could drop rapidly with the onset of any climate or weather extremes. For this reason, further surveys should be conducted over a longer period of time in order for the true impact on the area's Quino population to be determined.

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Aside from the endangered Quino checkerspot butterfly, the California Department of Fish and Wildlife cautions that the area supports black-tailed jackrabbit; a favored prey of golden eagles, which are also present in the proposed Project area. The Bald and Golden Eagle

Protection Act prohibits any activity that may "disturb" an eagle, including disruption to its feeding or sheltering behavior. U.S. Geological Survey golden eagle data suggests that even indirect effects due to fragmentation of habitat within their territory may result in even greater portions of the territory becoming unusable, and could result in abandonment of the territory. Like the Quino checkerspot, black-tailed jackrabbits exhibit cyclical population abundance and may have been an a particular high or low when the surveys were conducted. More extensive surveys need to be conducted to monitor the hunting and/or nesting activities of golden eagles in the area, as well as the impact of the Project on the population of the black-tailed jackrabbits.

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We are not convinced that the EIR effectively analyzed habitat connectivity and corridors. The persistence of many species in the already conserved area, such as the golden eagle, black-trailed jackrabbit and the Quino checkerspot butterfly, is dependant on landscape connectivity between occupied habitats. Enabling concentrated developments within the Proctor Valley and Otay Lakes area will likely sever functional connectivity for many species, greatly increasing the chance that the species will be lost to the area over time. The connectivity analyses provided in the current EIR are based on outdated assumptions, and need to be reassessed to incorporate more up-to-date modeling for target species. Width of habitat linkage is not, by itself, an appropriate metric for evaluating functionality. Habitat linkages should be species-specific and evaluated based on habitat quality, vegetation communities, and topography, not just the width of the linkages. Wildlife studies need to be re-conducted with these metrics in mind.

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We are also deeply concerned about the impact of the Project on the area's burrowing owl population. Western burrowing owls are at risk of going extinct locally. The EIR admits that there would be "significant impact" on this sensitive species. As burrowing owls are ground nesting, there are almost no possible methods of mitigation, and any amount of disturbance in their direct habitat would eliminate them. Attempts have been made to relocate other burrowing owls in the area, including at Brown Field airport, but the success rate has been inconsistent. Attempts have also been made to create imitation burrows to attract owls to a new area, but those have been mostly unsuccessful in the San Diego area as well. The San Diego Zoo affirms that current mitigation strategies have no proven record of success and further research is required into the best methods of mitigation for this species.

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The EIR discusses surveying the construction site for owl burrows or nests before construction begins, but does not make mention of the potential for burrowing owls to occupy the construction site once it has begun. Burrowing owls have been known to occupy pipes and culverts, so it is vital that inspection would continue throughout the construction process if the Project is approved.

RO-7-16 Protection of the burrowing owls themselves is not the only relevant factor, as the owls rely heavily on ground squirrels as a primary source of prey. The Project would also have an effect on ground squirrel populations in the area, but that is not discussed in the EIR.

RO-7-17 Also present in and around the vernal pools, located throughout the proposed Project area, are San Diego fairy shrimp and Western spadefoot toads. The status of Western spadefoot toads is currently under review, and San Diego fairy shrimp are classified as endangered. San Diego fairy shrimp are restricted to ephemeral basins, like the vernal pools present on the proposed Project site, and cannot hatch in perennial basins. Disruption of the vernal pools on the proposed Project site would be cataclysmic to the viability of these essential fairy shrimp populations.

RO-7-18 > Only a portion of the cysts may hatch when pools refill in the same or subsequent rainy seasons; therefore, cyst "banks" develop in pool soils that are composed of cysts from several years of breeding. This partial hatching of cysts allows the San Diego fairy shrimp to persist in its extremely variable environment, since pools commonly fill and dry before hatched individuals can reproduce, and if all cysts hatched during an insufficient filling the species could be extirpated from a pool [citation]. **The ability of San Diego fairy shrimp to develop and maintain cyst banks is vital to the long-term survival of San Diego fairy shrimp populations** [citation].

(Emphasis added) Carlsbad Fish and Wildlife Office, *5-Year Review: San Diego Fairy Shrimp* § 5 (2008). The proposed mitigation plan for the vernal pools is deficient. Merely restoring and protecting the pools directly is not enough, as upland habitats and runoff have a huge influence on their well-being.

RO-7-19 > The listing rule for San Diego fairy shrimp identifies habitat isolation and fragmentation as a threat to the species. Fragmentation can isolate pools/complexes from upland habitats, which provide much of the San Diego fairy shrimp's food sources (algae, diatoms, and particulate organic matter brought into pools via overland flow of rainwater runoff). Because of the transportation of water, soil, minerals and nutrients over the landscape into vernal pools, the upland, or upslope areas associated with vernal pools are an important source of these for vernal pool organisms [citation]. Since vernal pools are mostly rain-fed, they tend to have low nutrient levels [citation]. In fact, most of the nutrients that vernal pool crustaceans derive from their vernal pool habitat come from the detritus (decaying organic matter) that washes into pools from the adjacent upslope areas; these nutrients provide the foundation for the food chain

in the vernal pool aquatic community...**The Service encourages development projects to avoid isolating vernal pools or dividing complexes into ecologically separate fragments, and to configure new preserved/restored sites adjacent to and continuous with existing preserve areas.**

(Emphasis added) Carlsbad Fish and Wildlife Office, *5-Year Review: San Diego Fairy Shrimp* § 13 (2008). As it stands, the proposed Project surrounds the pool complexes and isolates them from their related upland habitats.

RO-7-20 Even with innundation mitigation, this development would subject the pools to potentially hazardous runoff and would irrefutably alter their hydrology. San Diego fairy shrimp are very sensitive to the hydrology of their habitat, and are unable to regulate internal ion levels. Changes in sodium levels or alkalinity can quickly kill fairy shrimp. San Diego fairy shrimp are also an important food source for other aquatic species, including ducks and Western spadefoot toad tadpoles. Surveys of the Project's effect on the vernal pools and fairy populations need to be far more extensive in order to satisfy us that every precaution is being taken to protect this species and ecosystem.

RO-7-21 The Project will also result in significantly compromised air quality in the area throughout the construction process, and once the development is completed. Removal of stabilized soils and biological soil crust creates a destructive cycle of airborne particulates and erosion. As more stabilized soils are removed, blowing particulates from recently eroded areas act as abrasive catalysts that erode the remaining crusts thus resulting in more airborne particulates.

RO-7-22 As stated in the current EIR, construction-related greenhouse gas emissions would exceed the County's limits, meaning that unsafe levels of air pollutants would have an impact on the surrounding community and wildlife during that time. Additionally, the EIR projects that the operational impacts of the Project would also have a **significant** cumulative effect on net emissions. The proposed mitigation measures do very little to concretely reverse these effects, leaving the vast majority of ongoing effort to the residents. The EIR in fact, goes on to say that even with full implementation of the mitigation measures, the Project would still have a "***significant and unavoidable direct impact*** to regional air quality." A development with this effect is unacceptable amidst the current state of our climate crises.

RO-7-23 The massive construction will compromise the air quality to the point where not only visual resources, but public health will be impacted. The Project will then have no choice but to

RO-7-24 use more water in an already overdrafted aquifer to control the large disturbance they intend to create. Due its proximity to the Lower Otay Reservoir, the Otay Water District does not propose

using recycled water anywhere in the development. This means that all irrigation for landscaping and parks throughout the project would be valuable potable water. In the case of future years of drought, which are inevitable, the amount of proposed water usage will be unsustainable.

Two of the seven site development alternatives still include a proposed golf course, of which the impact concerns us greatly. Pesticides and fertilizers are used widely in the upkeep of golf courses, and it is clear that the effects of pesticides on the hydrological system generate negative impacts on the environment and populations. They can have a direct impact on aquatic life, food chains, and the quality of potentially useful water bodies. This is especially concerning given the proximity to the fragile vernal pools ecosystem.

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The Project also increases the risk of a major fire in the area. The areas surrounding the proposed Project consist of dry chaparral and/or coastal sage scrub. Until recently, these areas have seen prolonged drought conditions. While the dry conditions have improved, there is no guarantee that the drought will not return, making the area especially fire-prone. A wildfire in this area can easily spread into Chula Vista, Jamul, El Cajon, Rancho San Diego, Spring Valley and San Diego. According to Cal Fire, 95% of wildfires in California are caused by people. The Project and its increased sources of potential fire, including automobiles, backyard barbeques and equipment, puts the region at greater risk of fire. There have been 20 fires in the area since 1910, and the project is placed directly in the footprint of the 2007 Harris Fire.

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We note that evacuation routes are very limited in the event of a major fire. A two-lane Proctor Valley Road seems to be proposed. Such a road is inadequate, as are the heavily congested roads in Chula Vista and Highway 94. Public safety issues are exacerbated by unreliable infrastructure to accommodate the consequences of more fires. Evacuating from wildfires can be life-threatening and having safety plans in place beforehand is not always enough. For example, while having warning systems and evacuation routes in place are important for fire preparedness and fire safety, their functionality when a fire occurs is not guaranteed. Wildfires may ignite with little or no notice, and warning systems can be slow and ineffective at reaching all residents in harm's way. This was the case with the Tubbs Fire in Sonoma County and Thomas Fire in Santa Barbara and Ventura Counties, which led to more than 40 deaths and almost $12 billion in property damage.

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It is not a matter of if there will be a fire in the area, but when. Multiple studies indicate that developments with low/intermediate-density clusters surrounded by fire dependent vegetation (i.e., chaparral) in areas with a history of fires – like those proposed by the County – have the highest chances of burning. By approving this Project, the San Diego Board of Supervisors will be directly endangering the lives of thousands of people and animals by placing homes in the exact arrangement and placement for maximum fire susceptibility, in areas where

RO-7-28

fires will inevitably burn. The proposed development would lead to a dangerous feedback loop of deadly fires and habitat destruction. It would be placed in an area dominated by chaparral and sage scrub, native California habitat that relies on wildfires to persist. These habitats are adapted to infrequent (every 30 to 150 years), large, high-intensity crown fire regimes, and if these regimes are disrupted, the habitats become degraded, which in turn increases the likelihood of wildfires. The best way to improve fire safety is to proactively reduce exposure to wildfire risk by avoiding the placement of homes in fire-dependent ecosystems. Urban planning and design should focus on infill development in urban core areas, where wildfire threat is lower and people have access to jobs, public transit, and community. We can no longer dismiss California's natural fire regime and the direct relationship between urban sprawl and deadly wildfires. In order to keep its residents healthy and safe, and to protect native biodiversity, the County needs to stop approving development in high wildfire threat areas

RO-7-29

Smoke is a product of the natural and necessary wildfire regime in chaparral and sage scrub ecosystems. However, new leapfrog developments situated in fire-prone chaparral and sage scrub habitats, like those at issue here, will lead to increased human ignitions that will produce increased levels of smoke beyond what is natural. This can lead to harmful public health impacts due to increased air pollution not only from burned vegetation, but also from burned homes, commercial buildings, cars, etc. Buildings and structures often contain plastic materials, metals, and various stored chemicals that release toxic chemicals when burned, such as pesticides, solvents, paints, and cleaning solutions. Thus, human-caused wildfires at the urban wildland interface that burn through developments, as is becoming more common with housing extending into fire-prone chaparral and shrublands, increase the frequency and toxicity of smoke exposure to communities in and downwind of the fires.

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Increased fire frequency due to human activity and ill-placed developments will lead to increased occurrences of poor air quality from smoke, which can have public health effects. Hospital visits for respiratory symptoms (e.g., asthma, acute bronchitis, pneumonia, or chronic obstructive pulmonary disease) have been shown to increase during and/or after fire events. In particular, in a study assessing the health impacts of the 2003 Cedar Fire in San Diego County, which burned an area of about 280,000 acres that consisted of chaparral and scrub-dominated landscapes and almost 3,000 structures, there were increases in hospital emergency room visits for asthma, respiratory problems, eye irritation, and smoke inhalation. The proposed Projects do not thoroughly consider the health impacts that communities will have to suffer if developments are placed in fire-prone shrublands where they will disrupt the natural fire regime and increase fire frequency and smoke exposure. The County needs to consider these public health impacts and refrain from placing poorly-planned, leapfrog developments in landscapes dominated by fire-prone chaparral and shrublands.

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Additionally, the critically threatened Thorne's hairstreak butterfly only remains in one small area of Otay Mountain, and regardless of whether its range ever extends to the proposed Project site, a large fire in the area could quickly render the species extinct. About 68 percent of Thorne's hairstreak habitat was lost to the 2003 Mine fire. As previously mentioned, the best method of fire prevention in the area is to reduce risk factors like further development.

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There are endangered and threatened plant species in the Project area as well that could be eliminated by construction, pollution, recreation and fire. The San Diego ambrosia is listed as endangered and very few natural occurrences are left throughout its habitat range.

> At listing, development was a significant threat to Ambrosia pumila throughout its range and nearly all of the 25 known natural occurrences lost prior to listing were extirpated by urban development and highway construction...
>
> The loss and modification of Ambrosia pumila habitat continues to be a threat to the species.

Carlsbad Fish and Wildlife Office, *5-Year Review: Ambrosia pumila (San Diego ambrosia)* § 13-14 (2010). San Diego ambrosia produces few viable seeds and has low sexual reproduction, so loss of suitable habitat is exceptionally detrimental to this plant.

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Development and urbanization are also listed as the primary threat to the endangered San Diego thornmint, but increased fire risk is noted to have a significant impact as well. The thronmint grows exclusively on mid to low grade hills facing from southeast to west. The slopes that contain the proposed Project site fit this exact criteria.

> The proximity of development to occurrences of this species leads to nonnative plant competition, trampling, fragmentation, and increased isolation in many cases.

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Carlsbad Fish and Wildlife Office, *5-Year Review: Acanthomintha ilicifolia (San Diego thornmint)* § 16 (2009). While mitigation efforts in the EIR address relocation and seed collection, the ongoing threats to the thornmint would include increased likelihood of the introduction of non-native species and unauthorized recreation in the Preserves. Development in this habitat will increase the occurrence of non-native species, whether by disturbance or species brought in by residents.

> Nonnative plants may alter habitat in an area to the point that it no longer supports *A. ilicifolia*. In the listing rule, the invasion of nonnative species was

> noted to be most problematic immediately adjacent to urban areas and in habitat fragmented by development [citation]. **The listing rule noted that *A. ilicifolia* is particularly sensitive to nonnative competition.**

(Emphasis added) Carlsbad Fish and Wildlife Office, *5-Year Review: Acanthomintha ilicifolia (San Diego thornmint)* § 19 (2009).

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The Project will also diminish the character of a rural community, contribute to urban sprawl and worsen traffic for most of the southeast region of San Diego County. The Hollywood Casino has already created terrible traffic congestion along the Highway 94, Lyons Valley Road and Otay Lakes Road. The EIR admits that sections of highways including Highway 94 and Intestate 805 are already heavily congested. In light of these existing traffic conditions, the development of approximately 2000 homes as well as commercial buildings will paralyze the traffic in the area. Traffic congestion also vastly increases noise and air pollution. The current EIR does not effectively address methods for substantial traffic mitigation.

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Noise pollution, like air pollution, has significant health implications. Construction and traffic noise are some of the largest producers of noise pollution. Prolonged exposure to noise pollution can lead to hypertension and heart disease, hearing loss and consequential sleep disturbances. The EIR acknowledges that heavy traffic congestion on nearby roads and highways would increase during construction, and would continue with the completion of the Project. Noise pollution does not only adversely effect human lives. Wildlife, especially birds, are heavily impacted by increased noise pollution. Communication, mating behavior, hunting and survival instincts of animals are altered by excessive noise, and as discussed previously, the Project area is home to numerous sensitive species.

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As written, the EIR also glosses over the aggregate environmental impacts of the Project and misleads the reader through words such as "may" and "potentially." This Project cannot be viewed independently from other planned developments in the region. The EIR needs to address the cumulative effects of the Project in relation to other nearby projects and planned developments.

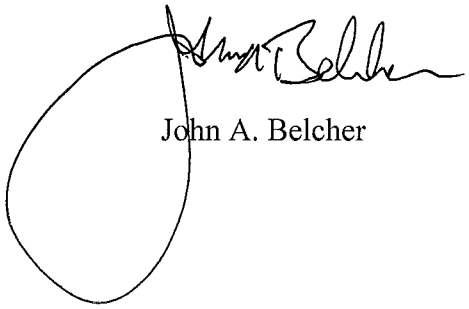
> The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

CEQA Guidelines § 15355(b).

RO-7-38 Greenhouse gas emissions, noise and air pollution, and habitat fragmentation are aggregate and have cumulative effects. It would be a cataclysmic oversight for the County to allow the Project to move forward without fully analyzing this Project's impact in relation to the overall impact of other projects in the region that are currently in development or in the planning stages.

RO-7-39 For all of the reasons stated above, we oppose the project as currently proposed. The Project's EIR must be rewritten to address all the environmental impacts. The current EIR, including the introduction of Alternative H, misleads the reader as to the impact of the Project. Only a rewritten cumulative impacts analysis will allow the public to understand the true impact of the Project.

Sincerely,



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